

Citibank, N.A.
399 Park Avenue
New York, N.Y.
10043

14796
RECORDATION NO. _____ FILED 142

OCT 1 1985 - 1 15 PM

September 30, 1985

INTERSTATE COMMERCE COMMISSION

James H. Bayne
Secretary
Interstate Commerce Commission
12th St. & Constitution Ave., N.W.
Room 2215
Washington, D.C. 20433

No. 5-274A039
OCT 1 1985
Date
Fee \$ 10.00.....

ICC Washington, D. C.

Dear Mr. Bayne:

I have enclosed an original and one copy of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is a Mortgage, a primary document, dated September 24, 1985.

The names and addresses of the parties to the documents are as follows:

Mortgagor: Avondale Industries, Inc.
277 Park Avenue
16th Floor
New York, New York 10172

Mortgagee: Citibank, N.A., as Agent
641 Lexington Avenue
New York, New York 10043
Attention: Avondale Industries Analyst

100 OFFICE OF
THE SECRETARY
OCT 1 1 10 PM '85
MOTOR OPERATING UNIT

Included in the property covered by the aforesaid Mortgage are railroad cars, locomotives and other rolling stock intended for use related to interstate commerce, or interests therein, owned by Avondale Industries, Inc. at the date of said Mortgage or thereafter acquired by it or its successors as owners of the lines of railway covered by the Mortgage.

A fee of \$10 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to Citibank, N.A., 641 Lexington Avenue, New York, New York 10043, Attention: Avondale Industries Analyst.

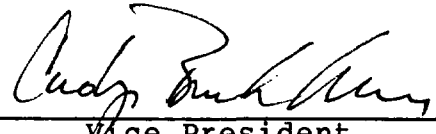
September 30, 1985

A short summary of the document to appear in the index as follows:

Mortgage between Avondale Industries, Inc., 277 Park Avenue, 16th Floor, New York, New York 10172 and Citibank, N.A., as Agent, 641 Lexington Avenue, New York, New York 10043, dated September 24, 1985. Included in the property covered by the aforesaid mortgage are railway cars, locomotives and other rolling stock intended for use related to interstate commerce, or interests therein, owned by Avondale Industries, Inc. at the date of said mortgage or thereafter acquired by it or its successors as owner of the lines of railway covered by the mortgage.

Very truly yours,

CITIBANK, N.A., AS AGENT

BY 
Vice President

OCT 1 1985 - 1 15 PM

INTERSTATE COMMERCE COMMISSION

ROLLING STOCK MORTGAGE dated September 24, 1985, made by AVONDALE INDUSTRIES, INC., a Delaware corporation with an office at 277 Park Avenue, 16th Floor, New York, New York 10172 (the "Grantor"), to CITIBANK, N.A., with an office at 641 Lexington Avenue, New York, New York 10043 ("Citibank"), as agent (the "Agent") for the banks (the "Banks") parties to the Credit Agreement (as hereinafter defined).

PRELIMINARY STATEMENT. The Banks and the Agent have entered into a Credit Agreement dated as of September 24, 1985 with the Grantor (said Agreement, as it may hereafter be amended or otherwise modified from time to time, being the "Credit Agreement", the terms defined therein and not otherwise defined herein being used herein as therein defined). It is a condition precedent to the making of Advances by the Banks and the issuance by Citibank of Letters of Credit for the account of the Grantor under the Credit Agreement that the Grantor shall have granted the mortgage liens and security interests contemplated by this Agreement.

NOW, THEREFORE, in consideration of the premises and in order to induce the Banks to make Advances and Citibank to issue Letters of Credit under the Credit Agreement, the Grantor hereby agrees with the Agent for its benefit and the ratable benefit of the Banks as follows:

SECTION 1. Grant of Mortgage. The Grantor hereby grants to the Agent for its benefit and the ratable benefit of the Banks a mortgage lien on and security interest in all of the estate, right, title and interest of the Grantor in, to and under all of the railroad cars, locomotives and other rolling stock intended for a use related to interstate commerce listed on Schedule I hereto and any railroad cars, locomotives and other rolling stock intended for a use related to interstate commerce hereinafter acquired (the "Rolling Stock").

SECTION 2. Security for Obligations. This Agreement secures the payment of all obligations of the Grantor now or hereafter existing under the Credit Agreement and the Notes (including, without limitation, the reimbursement and all other obligations of the Grantor in connection with the issuance of, and drawings under, the Letters of Credit), whether for principal, interest, fees, expenses or otherwise and all obligations of the Grantor now or hereafter existing under this Agreement (all such obligations being the "Obligations").

SECTION 3. Representations and Warranties. The Grantor represents and warrants as follows:

(a) The Grantor is the legal and beneficial owner of the Rolling Stock free and clear of any mortgage, lien, security interest, option, charge or encumbrance except for the mortgage liens and security interests created by this Agreement. No effective mortgage, lease, equipment trust agreement, conditional sales agreement, security agreement, financing statement or other instrument similar in effect covering all or any part of the Rolling Stock is on file in the office of the Interstate Commerce Commission or in any recording office, except such as may have been filed in favor of the Agent relating to this Agreement.

(b) The Grantor has exclusive possession and control of the Rolling Stock.

(c) This Agreement creates a valid and perfected first mortgage lien on and security interest in the Rolling Stock, securing the payment of the Obligations, and all filings and other actions necessary or desirable to perfect and protect such mortgage lien and security interest have been duly taken.

(d) No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required either (i) for the grant by the Grantor of the mortgage lien and security interest granted hereby or for the execution, delivery or performance of this Agreement by the Grantor, or (ii) for the perfection of or the exercise by the Agent of its rights and remedies hereunder, except for the filing with the Interstate Commerce Commission.

(e) Schedule I lists all of the railroad cars, locomotives and other rolling stock intended for a use related to interstate commerce, and the true AAR Code and identifying numbers thereof, owned by the Grantor.

SECTION 4. Further Assurances. (a) The Grantor agrees that from time to time, at the expense of the Grantor, the Grantor will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that the Agent may request, in order to perfect and protect any mortgage lien or security interest granted or purported to be granted hereby or to

enable the Agent to exercise and enforce its rights and remedies hereunder with respect to the Rolling Stock. Without limiting the generality of the foregoing, the Grantor will execute and file such financing or continuation statements, or amendments thereto, and such other instruments or notices, as may be necessary or desirable, or as the Agent may request, in order to perfect and preserve the mortgage lien and security interests granted or purported to be granted hereby.

(b) The Grantor hereby authorizes the Agent to file one or more instruments or assignments, and amendments thereto, relative to all or any part of the Rolling Stock without the signature of the Grantor where permitted by law.

(c) The Grantor will furnish to the Agent from time to time statements and schedules further identifying and describing the Rolling Stock and such other reports in connection with the Rolling Stock as the Agent may reasonably request, all in reasonable detail.

SECTION 5. Covenants. The Grantor shall:

(a) Cause the Rolling Stock to be maintained and preserved in the same condition, repair and working order as when new, ordinary wear and tear excepted, and in accordance with any manufacturer's manual and any government regulations, and shall forthwith, or in the case of any loss or damage to any of the Rolling Stock as quickly as practicable after the occurrence thereof, make or cause to be made all repairs, replacements, and other improvements in connection therewith that are necessary or desirable to such end. The Grantor shall promptly furnish to the Agent a statement respecting any loss or damage to any of the Rolling Stock.

(b) Pay promptly when due all property and other taxes, assessments and governmental charges or levies imposed upon, and all claims (including claims for labor, materials and supplies) against, the Rolling Stock, except to the extent the validity thereof is being contested in good faith.

(c) Hold all proceeds of Rolling Stock in trust for the benefit of the Banks.

(d) Notify the Agent promptly of the acquisition of any railroad cars, locomotives or railway equipment, and

provide the Agent with all documents related thereto which in the reasonable opinion of the Agent is necessary or desirable for the Agent to create or perfect a mortgage lien thereon or security interest therein.

~~(e) Furnish to the Agent, with sufficient copies for each Bank, promptly and in any event within 15 days after the end of each month, or more frequently if the Agent so requests, a report detailing changes in the amount and condition of the Rolling Stock, including purchases, depreciation, sales and losses, since the last such report so furnished.~~

SECTION 6. Insurance. (a) The Grantor shall, at its own expense, maintain insurance with respect to the Rolling Stock in such amounts, against such risks, in such form and with such insurers, as shall be satisfactory to the Agent from time to time. Each policy for (i) liability insurance shall provide for all losses to be paid on behalf of the Agent and the Grantor as their respective interests may appear and (ii) property damage insurance shall provide for all losses to be paid directly to the Agent. Each such policy shall in addition (i) name the Grantor and the Agent as insured parties thereunder (without any representation or warranty by or obligation upon the Agent) as their interests may appear, (ii) contain the agreement by the insurer that any loss thereunder shall be payable to the Agent notwithstanding any action, inaction or breach of representation or warranty by the Grantor, (iii) provide that there shall be no recourse against the Agent for payment of premiums or other amounts with respect thereto, and (iv) provide that at least 10 days' prior written notice of cancellation or of lapse shall be given to the Agent by the insurer. The Grantor shall deliver to the Agent original or duplicate policies of such insurance and, as often as the Agent may reasonably request, a report of a reputable insurance broker with respect to such insurance. Further, the Grantor shall, at the request of the Agent, duly exercise and deliver instruments of assignment of such insurance policies to comply with the requirements of Section 4 and cause the insurers to acknowledge notice of such assignment.

(b) Reimbursement under any liability insurance maintained by the Grantor pursuant to this Section 6 may be paid directly to the person who shall have incurred liability covered by such insurance. In case of any loss involving damage to Rolling Stock when subsection (c) of this Section 6 is not applicable, the Grantor shall make or cause to be made the necessary repairs to or replacements of such Rolling

Stock, and any proceeds of insurance maintained by the Grantor pursuant to this Section 6 shall be paid to the Grantor as reimbursement for the costs of such repairs or replacements.

(c) Upon (i) the occurrence and during the continuance of any Default or (ii) any Casualty Loss with respect to any Rolling Stock, all insurance payments in respect of such Rolling Stock shall be paid to and held by the Agent as collateral for, and/or then or at any time thereafter applied (after payment of any amounts payable to the Agent pursuant to Section 12) in whole or in part by the Agent for the ratable benefit of the Banks against, all or any part of the Obligations, in such order as the Agent shall elect. Any surplus of such cash or cash proceeds held by the Agent and remaining after payment in full of all the Obligations shall be paid over to the Grantor or to whomsoever may be lawfully entitled to receive such surplus.

SECTION 7. Transfers and Other Liens. (a) The Grantor shall not:

(i) Sell, assign (by operation of law or otherwise) or otherwise dispose of any of the Rolling Stock, except as permitted by the Credit Agreement.

(ii) Create or suffer to exist any lien, security interest or other charge or encumbrance upon or with respect to any of the Rolling Stock, except for the mortgage lien and security interest created by this Agreement or as otherwise permitted by the Credit Agreement.

SECTION 8. Agent Appointed Attorney-in-Fact. The Grantor hereby irrevocably appoints the Agent the Grantor's attorney-in-fact, with full authority in the place and stead of the Grantor and in the name of the Grantor or otherwise, from time to time in the Agent's discretion, to take any action and to execute any instrument that the Agent may deem necessary or advisable to accomplish the purposes of this Agreement, including, without limitation:

(i) to obtain and adjust insurance required to be paid to the Agent pursuant to Section 6,

(ii) to ask, demand, collect, sue for, recover, compromise, receive and give acquittance and receipts for moneys due and to become due under or in respect of any of the Rolling Stock,

(iii) to receive, indorse, and collect any drafts or other instruments, documents and chattel paper, in connection with clause (i) or (ii) above, and

(iv) to file any claims or take any action or institute any proceedings which the Agent may deem necessary or desirable for the collection of any of the Rolling Stock or otherwise to enforce the rights of the Agent with respect to any of the Rolling Stock.

SECTION 9. Agent May Perform. If the Grantor fails to perform any agreement contained herein, the Agent may itself perform, or cause performance of, such agreement, and the expenses of the Agent incurred in connection therewith shall be payable by the Grantor under Section 12(b).

SECTION 10. The Agent's Duties. The powers conferred on the Agent hereunder are solely to protect its interest in the Rolling Stock and shall not impose any duty upon it to exercise any such powers. Except for the safe custody of any Rolling Stock in its possession and the accounting for moneys actually received by it hereunder, the Agent shall have no duty as to any Rolling Stock or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Rolling Stock.

SECTION 11. Remedies. If any Default shall have occurred and be continuing:

(a) The Agent may exercise in respect of the Rolling Stock, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party on default under the Uniform Commercial Code (the "Code") (whether or not the Code applies to the affected Rolling Stock) and also may (i) require the Grantor to, and the Grantor hereby agrees that it will at its expense and upon request of the Agent forthwith, assemble all or part of the Rolling Stock as directed by the Agent and make it available to the Agent at a place to be designated by the Agent which is reasonably convenient to both the Agent and the Grantor, (ii) occupy any premises owned or leased by the Grantor where the Rolling Stock or any part thereof is assembled for a reasonable period in order to effectuate its rights and remedies hereunder or under law, without obligation to the Grantor in respect of such occupation, and (iii) without notice except as specified below, sell the Rolling Stock or any part thereof in one or more

parcels at public or private sale, at any of the Agent's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Agent may deem commercially reasonable. The Grantor agrees that, to the extent notice of sale shall be required by law, at least ten days' notice to the Grantor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Agent shall not be obligated to make any sale of Rolling Stock regardless of notice of sale having been given. The Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

SECTION 12. Indemnity and Expenses. (a) The Grantor agrees to indemnify the Agent from and against any and all claims, losses and liabilities growing out of or resulting from this Agreement (including, without limitation, enforcement of this Agreement), except claims, losses or liabilities resulting from the Agent's gross negligence or wilful misconduct.

(b) The Grantor will upon demand pay to the Agent the amount of any and all reasonable expenses, including the reasonable fees and disbursements of its counsel and of any experts and agents, which the Agent may incur in connection with (i) the administration of this Agreement, (ii) the custody, preservation, use or operation of, or the sale of, collection from, or other realization upon, any of the Rolling Stock, (iii) the exercise or enforcement of any of the rights of the Agent or the Banks hereunder, or (iv) the failure by the Grantor to perform or observe any of the provisions hereof.

SECTION 13. Mortgage and Security Interest Absolute. All rights of the Agent and the mortgage liens and security interests hereunder, and all obligations of the Grantor hereunder, shall be absolute and unconditional, irrespective of:

(i) any lack of validity or enforceability of the Credit Agreement, the Notes, any Collateral Document, any other Loan Document or any other agreement or instrument relating thereto;

(ii) any change in the time, manner or place of payment of, or in any other term of, all or any of the

Obligations or any other amendment or waiver of or any consent to any departure from the Credit Agreement, the Notes, any Collateral Document or any other Loan Document;

(iii) any exchange, release or non-perfection of any other collateral, or any release or amendment or waiver of or consent to departure from any guaranty, any Collateral Document or any other Loan Document with respect to all or any of the Obligations; or

(iv) any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Grantor, or a third party grantor of a mortgage or security interest.

SECTION 14. Amendments, Etc. No amendment or waiver of any provision of this Agreement nor consent to any departure by the Grantor herefrom, shall in any event be effective unless the same shall be in writing and signed by the Agent, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given, except that Grantor authorizes the Agent to modify this Agreement by amending Schedule I to include any railroad cars, locomotives or railway equipment acquired by Grantor after the date of this Agreement.

SECTION 15. Addresses for Notices. All notices and other communications to any party provided for hereunder shall be in writing (including telegraphic communication) and mailed or delivered or, in the case of the Grantor, telegraphed to it, addressed to it at its address specified in the Credit Agreement, or as to either party at such other address as shall be designated by such party in a written notice to each other party complying as to delivery with the terms of this Section. All such notices and other communications shall, when mailed or telegraphed, respectively, be effective when deposited in the mails or delivered to the telegraph company, respectively, addressed as aforesaid.

SECTION 16. Continuing Mortgage Lien and Security Interest; Transfer of Notes; Release of Rolling Stock. (a) This Agreement shall create a continuing mortgage lien on and security interest in the Rolling Stock and shall (i) remain in full force and effect until payment in full (after the Termination Date) of the Obligations; (ii) be binding upon the Grantor, its successors and assigns, and (iii) inure, together with the rights and remedies of the Agent hereunder, to the benefit of the Agent, the Banks and their successors,

transferees and assigns. Without limiting the generality of the foregoing clause (iii), any Bank may assign or otherwise transfer any Note held by it to any other person or entity, and such other person or entity shall thereupon become vested with all the benefits in respect thereof granted to such Bank herein or otherwise, subject, however, to the provisions of Article VII (concerning the Agent) of the Credit Agreement.

(b) Upon any sale, lease, transfer or other disposition of any item of Rolling Stock in accordance with the terms of the Credit Agreement, the Agent will, at the Grantor's expense, execute and deliver to the Grantor such documents as the Grantor shall reasonably request to evidence the release of such item of Rolling Stock from the mortgage and security interest granted hereby, provided that (i) at the time of such request and such release no Default shall have occurred and be continuing, (ii) the Grantor shall have delivered to the Agent, at least ten Business Days prior to the date of the proposed release, a written request for release describing the item of Rolling Stock and the terms of the sale, lease, transfer or other disposition in reasonable detail, including the price thereof and any expenses in connection therewith, together with a form of release for execution by the Agent and a certification by the Grantor to the effect that the transaction is in compliance with the Credit Agreement and as to such other matters as the Agent may request, (iii) the proceeds of any such sale, lease, transfer or other disposition required to be applied in accordance with Section 2.06(a)(ii) of the Credit Agreement shall be delivered to, or in accordance with the instructions of, the Agent at the closing and (iv) the Agent shall have approved such sale, lease, transfer or other disposition in writing. Upon the payment in full (after the Termination Date) of the Obligations, the security interest granted hereby shall terminate and all rights to the Rolling Stock shall revert to the Grantor. Upon any such termination, the Agent will, at the Grantor's expense, execute and deliver to the Grantor such documents as the Grantor shall reasonably request to evidence such termination.

SECTION 17. Governing Law. This Agreement shall, except to the extent that the laws of another state apply to the Rolling Stock or any part thereof, be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their officers thereunto duly authorized as of the date first above written.

AVONDALE INDUSTRIES, INC.

By: Albert H. Bassini Jr.
Title: Exec VP

CITIBANK, N.A., as Agent

By: J. P. [Signature]
Vice President

CERTIFICATE OF ACKNOWLEDGEMENT

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) ss.:

Before me, the undersigned, a Notary Public in and for the county aforesaid, on this 26th day of September, 1985, personally appeared Albert L. Bossier to me know personally, and who, being by me duly sworn, deposes and says that he is the Executive Vice President of Avondale Industries, Inc. and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said Albert L. Bossier acknowledged said instrument to be the free act and deed of said corporation.

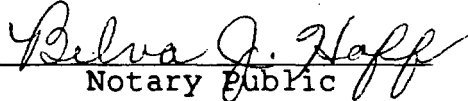

Notary Public

BELVA J. HOFF
Notary Public, State of New York
No. 4731168 Qualified in Nassau Co.
Cert. Filed in New York County
Commission Expires March 30, 1986

CERTIFICATE OF ACKNOWLEDGEMENT

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Before me, the undersigned, a Notary Public in and for the county aforesaid, on this 26th day of September, 1985, personally appeared James B. Murray to me known personally, and who, being by me duly sworn, deposes and says that he is the Vice President of Citibank, N.A., and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said James B. Murray acknowledged said instrument to be the free act and deed of said corporation.


Notary Public

BELVA J. HOFF
Notary Public, State of New York
No. 4731168 Qualified in Nassau Co.
Cert. Filed in New York County
Commission Expires March 30, 1986

SCHEDULE I
to
Security Agreement

ROLLING STOCK

<u>Description</u>	<u>Quantity</u>	<u>AAR Car Type Code</u>	<u>Identifying Number</u>
Rail Flat Car	1		
Flat Cars	12	ASYX7401-7412	
N.W.-2 Locomotive	1		6288
E.M.D. 1000 H.P. Switch	1		A7763
40' Flat Cars	8		
Gondola Rail Cars	3		
CVG Wheel Car	1	E120	OFCX66
Aluminum Prototype	1	K440	OFCX8400
Aluminum RDII	1	K440	OFCX8500
Aggregate Demo	1	K440	OFCX202003
Steel RDII	1	K440	OFCX202004
Double Deck Stock Car	1	S021	OFCX303001